

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,)	
)	
v.)	ID No. 1106019686
)	
ANTHONY A. STANLEY,)	
)	
Defendant.)	
)	

Date Submitted: May 1, 2023

Date Decided: July 3, 2023

ORDER

Upon consideration of Defendant Anthony A. Stanley’s third Motion for Postconviction Relief (“Motion”),¹ Stanley’s Motion for Appointment of Postconviction Counsel,² Superior Court Criminal Rule 61, statutory and decisional law, and the record, **IT APPEARS THAT:**

(1) Stanley pled guilty to Assault First Degree; Possession of a Firearm During Commission of a Felony (“PFDCF”); and Conspiracy Second Degree on January 31, 2012.³ Stanley was sentenced on June 8, 2012.⁴ By Corrected Order dated December 5, 2012, effective August 23, 2011, the Court sentenced him for crimes committed in this case, as well as crimes committed in another case.⁵ The

¹ D.I. 65.

² D.I. 66.

³ D.I. 20.

⁴ D.I. 30.

⁵ *Id.*

Court sentenced Stanley to a total of 22 years of unsuspended Level V time for the crimes committed in this case,⁶ and a total of 47 years of unsuspended Level V time overall for both cases.⁷ Stanley appealed,⁸ and subsequently the Supreme Court of Delaware affirmed the judgment of the Court, holding that the appeal was “wholly without merit and devoid of any arguably appealable issue.”⁹

(2) Stanley has filed two postconviction motions prior to the instant Motion. He filed his first postconviction motion on June 17, 2014,¹⁰ which the Court denied on February 3, 2015.¹¹ Stanley appealed,¹² and the Supreme Court of Delaware affirmed the judgment of the Court.¹³ Stanley filed another postconviction motion on November 23, 2015,¹⁴ which was denied on February 25, 2016.¹⁵ Stanley did not appeal the Order denying the second postconviction motion.

⁶ Stanley’s sentence for this case, ID No. 1106019686, is as follows: for Assault First Degree, 10 years at Level V with credit for 14 days previously served; for PFDCF, 12 years at Level V; and for Conspiracy Second Degree, 2 years at Level V, suspended for 2 years at Level IV, suspended after 1 year for 1 year of Level III. *Id.*

⁷ Stanley’s overall sentence for both cases combined is as follows: for Assault First Degree, 10 years at Level V with credit for 14 days previously served; for Reckless Endangerment First Degree, 5 years at Level V; for each count of PFDCF, 12 years at Level V; for PFBPP, 8 years at Level V; and for Conspiracy Second Degree, 2 years at Level V, suspended for 2 years at Level IV, suspended after 1 year for 1 year of Level III. *Id.*

⁸ D.I. 24; D.I. 25.

⁹ D.I. 32.

¹⁰ D.I. 49. This amended postconviction motion was filed by appointed counsel after Stanley filed *pro se* postconviction motions on March 20, 2013 and June 10, 2013. *See* D.I. 33; D.I. 40.

¹¹ D.I. 56. The Order was dated February 2, 2015, but was docketed on February 3, 2015. On January 1, 2015, the Commissioner’s report and recommendation denied the postconviction motion, which the Court reviewed *de novo* and subsequently adopted. *See* D.I. 55.

¹² D.I. 57.

¹³ D.I. 60.

¹⁴ D.I. 61.

¹⁵ D.I. 64.

(3) Stanley filed the instant Motion on May 1, 2023.¹⁶ He alleges that he is eligible for postconviction relief on two grounds. First, Stanley argues that the Court cautioned him that he could face a life sentence if he lost at trial, and therefore improperly participated in plea discussions.¹⁷ Acknowledging that the Motion is successive and the claim does not fit under Rule 61(d)(2)(i) or (ii), because Stanley was sentenced in 2012, he asks the Court to instead apply a prior version of Rule 61(i)(5).¹⁸ The prior rule allowed a defendant relief from the procedural bars if he made a “colorable claim that there was a miscarriage of justice because of a constitutional violation.”¹⁹ Second, Stanley argues that newly discovered evidence exists because his co-defendant, Tymere Demonica, named another person as the shooter in a police interview and signed an affidavit stating he lied about Stanley being the shooter.²⁰

(4) Superior Court Criminal Rule 61 governs postconviction relief. Before addressing the merits of any claim for postconviction relief, the Court must consult

¹⁶ D.I. 65.

¹⁷ *Id.* Stanley states that the Court asked if he had kids, then told him that “if you accept the State’s plea, you could make it home while she is still young because if you [were] to go to trial and lose [there is] no doubt in my mind you will get a life sentence.” Stanley does not cite to anything in support of this, and the Court has found no such statements in its review of the plea colloquy and sentencing hearing. *See* D.I. 20; D.I. 43.

¹⁸ D.I. 65.

¹⁹ *See State v. Drake*, 2023 WL 1769963, at *3 (Del. Super. Feb. 6, 2023).

²⁰ D.I. 65. Stanley also argues that the State committed a *Brady* violation because it did not provide the interview to the defense.

the four procedural bars in Rule 61(i).²¹ Rule 61(i)(1) provides that a motion for postconviction relief is untimely if it is filed more than one year after a judgment of conviction is final.²² Rule 61(i)(2) bars the consideration of successive motions.²³ Rule 61(i)(3) bars procedurally defaulted claims.²⁴ And Rule 61(i)(4) bars consideration of any ground for relief formerly adjudicated in the case.²⁵ A movant can only overcome the procedural bars if he “satisfies the pleading requirements [Rule 61(d)(2)(i) or (d)(2)(ii)].”²⁶ Under Rule 61(d)(2), a successive motion shall be summarily dismissed unless the movant was convicted after a trial and the motion meets either of the two pleading requirements set forth in Rule 61(d)(2)(i) or (d)(2)(ii).²⁷

(5) Stanley’s Motion is untimely because it was filed ten years after his judgment of conviction became final.²⁸ Moreover, because the Court’s Order

²¹ *Younger v. State*, 580 A.2d 552, 554 (Del. 1990).

²² Super. Ct. Crim. R. 61(i)(1).

²³ *Id.* at 61(i)(2).

²⁴ *Id.* at 61(i)(3).

²⁵ *Id.* at 61(i)(4).

²⁶ *Id.* at 61(i)(5).

²⁷ *Id.* at 61(d)(2). To overcome the bar against successive motions, in addition to the requirement that a movant was convicted after a trial, the motion must either:

(i) plead[] with particularity that new evidence exists that creates a strong inference that the movant is actually innocent in fact of the acts underlying the charges of which he was convicted; or

(ii) plead[] with particularity a claim that a new rule of constitutional law, made retroactive to cases on collateral review by the United States Supreme Court or the Delaware Supreme Court, applies to the movant's case and renders the conviction or death sentence invalid.

²⁸ See *id.* at 61(m)(2) (stating a judgment of conviction is final when, upon a defendant’s direct appeal, “the Supreme Court issues a mandate or order finally determining the case on direct

denying Stanley's second postconviction motion rejected the claim that Stanley's guilty plea was coerced due to the Court's alleged participation,²⁹ that claim is barred as formerly adjudicated. Furthermore, because Stanley has filed two prior postconviction motions, the Motion is successive. Stanley pled guilty rather than go to trial; therefore, he has not met the first requirement of Rule 61(d)(2), rendering this third Motion procedurally barred.³⁰ The Court is required to apply the current version of the rule and cannot, as Stanley asks, apply a prior version of Rule 61(i)(5) to circumvent the procedural requirements.³¹ Because the Motion is summarily dismissed, there is no reason to appoint counsel.³²

NOW, THEREFORE, IT IS HEREBY ORDERED that Stanley's third Motion for Postconviction Relief is **SUMMARILY DISMISSED** and his Motion

review." In 2013 the Supreme Court of Delaware issued a Mandate affirming the judgment of the Superior Court. D.I. 32.

²⁹ See D.I. 64; D.I. 61. Additionally, when affirming the Superior Court's judgment denying Stanley's first postconviction motion, in response to Stanley's challenge that he did not knowingly waive his trial rights, the Supreme Court held there was no plain error in Stanley's guilty plea. See D.I. 57.

³⁰ See *State v. Smith*, 2022 WL 601865, at *3 (Del. Super. Feb. 25, 2022) (holding that because the movant pled guilty, "that alone ends the inquiry" as to whether he can avail himself of Rule 61(d)(2), and even so, he did not present new evidence). Here, Stanley pled guilty as well, and therefore cannot avail himself of the rule. See also *State v. Windsor*, 2022 WL 4544841, at *2 (Del. Super. Sept. 28, 2022), *aff'd*, *Windsor v. State*, 293 A.3d 371, 2023 WL 2336641, at *2 (Del. Mar. 2, 2023) (TABLE); *State v. Whittle*, 2017 WL 2894789, at *2 (Del. Super. July 6, 2017).

³¹ See Order Amending Rule 61 of the Superior Court Rules of Criminal Procedure at 8 (Del. Super. June 4, 2014) (stating the amendment "shall apply to postconviction motions filed on or after June 4, 2014); see also *Jones v. State*, 2015 WL 6746873, at *1, n.4 (Del. Nov. 14, 2015) (citing Order Amending Rule 61 of the Superior Court Rules of Criminal Procedure (Del. Super. June 4, 2014)).

³² *Windsor*, 2022 WL 4544841, at *2.

for Appointment of Counsel is **DENIED**.

/s/ Jan R. Jurden
Jan R. Jurden, President Judge

Original to Prothonotary

cc: Barzilai K. Axelrod, DAG
Anthony A. Stanley (SBI# 370304)